

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GERARD BOULANGER,	:	
Plaintiff,	:	
	:	
v.	:	NH 06-cv-00308-ECT
	:	RI MC 07-23 T
WARREN DOWALIBY, et al.,	:	
Defendants.	:	

**ORDER
GRANTING IN PART
FEDERAL DEFENDANT'S MOTION FOR PROTECTIVE ORDER**

Before the Court is the Federal Defendant's Motion for Protective Order (N.H. Document ("Doc.") #50) ("Motion" or "Motion for Protective Order"). By the Motion, Robert Gilbert ("Mr. Gilbert" or the "Federal Defendant") seeks an order striking the discovery request propounded by Plaintiff Gerard Boulanger ("Plaintiff") and staying discovery from the Federal Defendant until the Court has ruled upon the Federal Defendants' ^[1] Motion to Dismiss (N.H. Doc. #27) ("Motion to Dismiss"). See Memorandum of Law in Support of Federal Defendant's Motion for Protective Order ("Federal Defendant's Mem.") at 1, 6; see also id., Exhibit ("Ex.") 1 (Plaintiff's discovery request entitled "Motion for Production of Documents"²). Plaintiff has filed an objection to the Motion for Protective Order. See Objection to Federal Defendant's Motion for Protective Order (N.H. Doc. #51) ("Plaintiff's Objection").

¹ Despite the use of the plural "Defendants," there is only one remaining Federal Defendant, Mr. Gilbert. See Memorandum of Law in Support of Federal Defendants' Motion to Dismiss at 3 ("As to the Federal Defendants, this Court has allowed only one claim to proceed -- a Bivens claims against former U.S. Marshal Robert Gilbert.").

² Although titled "Motion for Production of Documents," Plaintiff's discovery request has not been filed with the Court (nor should it be).

After consideration, the Court rules as follows. To the extent that the Motion seeks to strike Plaintiff's discovery request, the Motion is denied. The Court sees no reason that Plaintiff should have to re-serve his request if the Motion to Dismiss is denied. However, to the extent that the Motion seeks to stay discovery against Mr. Gilbert, the Motion is granted. The Court agrees with his counsel that it is unfair to require Mr. Gilbert to respond to Plaintiff's discovery request until there has been a ruling on the pending Motion to Dismiss.

So ordered.

ENTER:

/s/ David L. Martin
DAVID L. MARTIN
United States Magistrate Judge
August 1, 2007